

The Honorable Robert S. Lasnik

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JESSICA SAEPOFF,

Plaintiff,

V.

NORTH CASCADE TRUSTEE SERVICES,
INC.; HSBC BANK USA, N.A. AS TRUSTEE
FOR ACE SECURITIES CORP. HOME
EQUITY LOAN TRUST 2007-WM2;
OCWEN MORTGAGE SERVICING, LLC;
MERSCORP HOLDINGS, INC.;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and
JOHN DOES 1-20.

Defendants.

HSBC BANK USA, N.A. AS TRUSTEE ON
BEHALF OF ACE SECURITIES CORP.
HOME EQUITY LOAN TRUST AND FOR
THE REGISTERED HOLDERS OF ACE
SECURITIES CORP. HOME EQUITY LOAN
TRUST, SERIES 2007-WM2, ASSET
BACKED PASS-THROUGH CERTIFICATES;

Case No. 2:17-cv-000957-RSL

**STIPULATION REGARDING
PRIORITY BETWEEN HSBC BANK USA,
N.A. AND THE UNITED STATES OF
AMERICA**

1 v.

2 JESSICA SAEPOFF; UNKNOWN BENEFICIARY
3 OF THE 4003 92ND
4 AVENUE SE LAND TRUST; MARTIN
5 VICTOR BRENT, TRUSTEE OF THE 4003
6 92ND AVENUE SE LAND TRUST; RANDY
7 STYER, TRUSTEE OF THE 4003 92ND
8 AVENUE SE LAND TRUST; MORTGAGE
9 ELECTRONIC REGISTRATION SYSTEMS,
10 INC.; STATE OF WASHINGTON; UNITED
11 STATES OF AMERICA; OCCUPANTS OF
12 THE PREMISES,

13 Counterdefendants/Crossdefendants,

14 Counterclaimant HSBC Bank USA, N.A. as trustee on behalf of Ace Securities Corp.

15 Home Equity Loan Trust and for the Registered Holders of Ace Securities Corp. Home Equity
16 Loan Trust, Series 2007-WN2, Asset Backed Pass-Through Certificates ("HSBC Bank"), and
17 Counterdefendant the United States of America ("United States"), by and through their
18 undersigned counsel, hereby stipulate and agree as follows:

19 On April 11, 2017, HSBC Bank filed a Counterclaim in Case No. 16-2-09757-0-SEA in
20 the Superior Court of Washington in and for the County of King, seeking judicial foreclosure of
21 a Deed of Trust, naming the United States as a Counterdefendant. On June 22, 2017, the United
22 States removed this action to this Court. Dkt. No. 1. On July 21, 2017, the United States filed its
23 Answer and Claim, asserting an interest in the Subject Property pursuant to its Federal tax liens.
Dkt. No. 19.

The Subject Property of this action is commonly known as 4003 92nd Avenue Southeast,
Mercer Island, WA 98040, and legally described as:

1 LOT 1 of PATRICK HEIGHTS, AS PER PLAT RECORDED IN VOLUME 49
2 OF PLATS, ON PAGE 37, RECORDS OF KING COUNTY; SITUATE IN THE
3 CITY OF MERCER ISLAND, COUNTY OF KING, STATE OF
4 WASHINGTON.

5 Parcel No. 673570-0005-09

6 On November 6, 2006, WMC Mortgage Corp. recorded a Deed of Trust in the County
7 Recorder's Office in King County, Washington, serial number 20061106002692, encumbering
8 the Subject Property. The loan secured by the Deed of Trust was obtained by Jessica Saepoff,
9 the borrower, on or about November 2, 2006, from WMC Mortgage Corp., the lender, in the
10 principal amount of \$490,000.00. The beneficiary under the Deed of Trust was MERS (solely as
11 nominee for Lender and Lender's successors and assigns) and the successors and assigns of
12 MERS.

13 On or about April 7, 2011, MERS, as beneficiary of WMC Mortgage Corp., assigned its
14 interest in the Subject Property to HSBC Bank through an Assignment of Deed of Trust. The
15 Assignment of Deed of Trust was recorded with the County Recorder's Office in King County,
16 Washington, on August 5, 2011, serial number 2011805000962.

17 On January 26, 2011, the United States recorded a Notice of Federal Tax Lien with the
18 County Recorder's Office in King County, Washington against Jessica Saepoff, encumbering the
19 Subject Property with regard to unpaid federal income tax assessments for the taxable year 2008,
20 serial number 20110126000562¹.

21 ¹ The United States' Answer and Claim mistakenly stated that the Notice of Federal Tax Lien was recorded on
22 November 26, 2011, rather than January 26, 2011 (Dkt. No. 19, at 13). However, the correct recording date is
23 January 26, 2011.

1 On October 13, 2014, the United States recorded a Notice of Federal Tax Lien with the
2 County Recorder's Office in King County, Washington against Jessica Saepoff, encumbering the
3 Subject Property with regard to unpaid federal income tax assessments for the taxable years 2009
4 through 2012, serial number 20141013001323².

5 HSBC Bank and the United States agree and stipulate that HSBC Bank's interest in the
6 Subject Property, by virtue of its Deed of Trust recorded on November 6, 2006, in the County
7 Recorder's Office in King County, Washington, serial number 20061106002692, is senior to,
8 and has priority over, the interests of the United States, by virtue of the Notices of Federal Tax
9 Liens, recorded on January 26, 2011 and October 13, 2014, with serial numbers
10 20110126000562 and 20141013001323, respectively. Therefore, and by virtue of 26 U.S.C. §
11 6323(a), HSBC Bank is entitled to priority over the federal tax liens at issue in this lawsuit.

12 HSBC and the United States agree and stipulate that in the event the Court permits the
13 sale of the Subject Property, after completion of the sheriff's sale, the parties will provide
14 accountings of their interests in the Subject Property, including interest, setting forth the
15 disposition of the Subject Property's sale proceeds pursuant to RCW 6.21.110. HSBC Bank will
16 then submit a proposed order of disbursement providing that the proceeds from that sale should
17 be applied as follows: First, towards any costs of sale. Second, to satisfy the outstanding loan
18 secured by the Deed of Trust held by HSBC Bank, including attorney's fees and costs. Third, to
19 any other party, including the United States, according to the order of priority, as determined by
20

21 ² The United States' Answer and Claim mistakenly stated that the Notice of Federal Tax Lien was recorded on
22 October 14, 2013, rather than October 13, 2014 (Dkt. No. 19, at 13). However, the correct recording date is October
23 13, 2014.

1 the Court. If the affected parties cannot stipulate to the amounts of their liens, the parties shall
2 file written briefs setting forth their positions and the Court shall determine the disbursement of
3 funds.

4 HSBC Bank and the United States shall bear their own costs and fees related to this
5 litigation.

6 DATE: September 27, 2017

/s/ Laura Coughlin

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11 *Attorneys for HSBC Bank USA, N.A.; Ocwen
12 Mortgage Servicing, LLC; Merscorp Holdings, Inc.;
13 and Mortgage Electronic Registration Systems, Inc.*

14 DATE: October 2, 2017

DAVID A. HUBBERT
Acting Assistant Attorney General

15 /s/ Rika Valdman

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19 *Of Counsel:*

20 ANNETTE L. HAYES
21 United States Attorney
22 Western District of Washington

23 *Attorneys for the United States of America*

ORDER

The foregoing Stipulation between the HSBC Bank USA, N.A., and the United States is APPROVED. SO ORDERED.

DATED this 5th day of October, 2017.

Robert S. Lasnik
Robert S. Lasnik
United States District Judge